Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Framework For Next Generation 9-1-1 Deployment	)))	PS Docket No. 10-255
In the Matter of Facilitating the Deployment of Text-to-9-1-1 and Other Next Generation 9-1-1 Applications	)))	PS Docket No. 11-153
Legal and Statutory Framework for Next Generation 9-1-1 Services Pursuant To the Next Generation 9-1-1 Advancement Act of 2012	)))	PS Docket No. 12-333

COMMENTS OF INTRADO INC. AND INTRADO COMMUNICATIONS INC.

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Intrado Inc. and Intrado Communications Inc. (Intrado) are pleased to respond to the Federal Communications Commission's (FCC or Commission) request for comments on the legal and statutory framework for Next Generation 9-1-1 (NG9-1-1) services.[1]

I. INTRODUCTION AND SUMMARY

Intrado commends Congress and the Commission for their continued commitment to ensure that the nation transitions to NG9-1-1. The need for a federal framework has been evident for some time, and while a fully-envisioned NG9-1-1 environment is not in the immediate future, it is clear that federal guidance, and in some cases, federal action, will foster the transition from legacy 9-1-1 to NG9-1-1.

Ideally, state and local governments will retain their ability to independently design their own NG9-1-1 networks and procure their own NG9-1-1 services. For the sake of efficiency and

[1] *Public Safety and Homeland Security Bureau Seeks Comment on the Legal and Statutory Framework for the Next Generation 9-1-1 Services Pursuant to the Next Generation 9-1-1 Advancement Act of 2012*, Public Notice, PS Docket Nos. 10-255, 11-153, 12-333, DA12-1831 (Rel. November 13, 2012) (Public Notice).

cost savings, statewide planning and coordination of NG9-1-1 deployments should be encouraged. At the same time, it is appropriate for the federal government to take responsibility for mandating access to NG9-1-1, to ensure reliable NG9-1-1 networks, to determine interconnection obligations among originating service providers, 9-1-1 service providers and 9-1-1 authorities, and to clarify whether states and or federal authority will determine the obligations of service providers in the delivery and routing of calls to 9-1-1 authorities. The FCC already has authority and expertise to address many of these areas of national concern and should receive from Congress any further federal responsibilities associated with NG9-1-1.

It would be valuable to have consistent, independent federal immunity for 9-1-1, E9-1-1 and NG9-1-1 services. If insufficient authority exists to provide ubiquitous federal immunity, states should consider legislative changes to ensure that immunity is clearly applicable to NG9-1-1 providers and services. However, as long as the degree of immunity is the same immunity as that which exists today for wireless calls and interconnected VoIP calls, liability protection should not be viewed as an impediment to NG9-1-1 deployment.

Funding of NG9-1-1 is the predominant and most complex obstruction to wide-spread NG9-1-1 deployment. While NG9-1-1 deployments are progressing in some states, existing funding models will not sustain forward progress across the nation. Unfortunately, substantially more analysis and investigation is required before definitive funding models can be identified, and the specific funding questions raised by the Commission may be slightly premature.

Efficient and accurate transmission of caller information is important today as well as in a NG9-1-1 environment. All new accuracy technologies should be evaluated with the goal of attaining the most accurate location that is technically and economically feasible.

II. LEGAL AND REGULATORY FRAMEWORK FOR THE DEVELOPMENT OF NG9-1-1 SERVICES AND THE TRANSITION FROM LEGAGY 9-1-1 NETWORKS TO NG9-1-1

A. Federal Requirements and/or Incentives to Promote State Planning, Oversight, and Implementation of NG9-1-1

Oversight and coordination of NG 9-1-1 on a statewide basis have many benefits, such as consistent design, ensured interoperability and economic efficiencies relative to deployment costs. In addition, in light of the requirements of Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act)[2], states will have to develop state governance and decision-making with respect to deployment and utilization of the national public safety broadband network (NPSBN) with which NG9-1-1 networks and services will have to interact.[3] It would be appropriate for the federal government to facilitate statewide planning and implementation of NG9-1-1 through incentives, such as grant programs, as it has done in the past. For example, through the Enhance 9-1-1 Act of 2004, Congress made available matching grants for statewide coordination of E9-1-1 services.[4]

Neither statewide nor regional deployment should, however, be viewed as the *sine qua non* for the transition to NG9-1-1. PSAPs can and have begun to individually migrate from legacy 9-1-1 to internet protocol (IP) and data enriched environments—and those deployments will be capable of interacting with and becoming part of ESInets whereby IP networks are shared by other 9-1-1 authorities as well as other state and local agencies. Today, NG9-1-1 is evolving

[2] Pub. L. No. 112-96, 126 Stat. 156 (2012).

[3] Section 6206 (c) (2) requires the First Responder Network Authority (First Net) to consult with state and local jurisdictions with respect to network planning. Pub. L. No. 112-96, 126 Stat. 213-214 (2012). Section 6302 (e) (2) requires state decisions on "whether to participate in the deployment of the nationwide, interoperable network as proposed by [FirstNet]" or to "conduct its own deployment of a radio access network…"). Pub. L. No. 112-96, 126 Stat. 119-120 (2012).

[4] Pub. L. No. 108-494, 118 Stat. 3987 (2004).

at both the state and county levels. Statewide deployments have occurred, are commencing or are underway in Alabama, Connecticut, Hawaii, Iowa, Indiana, Maine, Minnesota, Tennessee, Vermont and Washington, and individual counties are moving forward in California, Florida, Louisiana, North Carolina, Nevada, Pennsylvania, Ohio, South Carolina, and Virginia.[5]

B. Federal Government's Role in NG9-1-1

Legislation defining the federal government's roles and responsibilities would be appropriate to establish national policy and, if necessary, to create or clarify authority critical to transition and deployment of NG9-1-1. Appropriate areas for federal policy and oversight are to 1) ensure that the public has access to 9-1-1 in a manner that meets consumers' expectations, including expanding, where appropriate, the services through which consumers can access 9-1-1; 2) establish the responsibilities of service providers in interconnecting for the purpose of delivering originating 9-1-1 traffic and clarify whether state or federal authority will determine the obligations of service providers in delivering 9-1-1 calls to 9-1-1 authorities; and 3) ensure that NG9-1-1 networks have at least the core functionality inherent in the legacy E9-1-1 system, such as system management, security, diversity/resiliency, redundancy and call management and, additionally, are scalable, robust, and interoperable.

Public safety must keep pace with rapid consumer adoption of advanced intelligent communication technologies. The failure to do so is one of the fundamental reasons why the technological gap being filled through NG9-1-1 is so large. To that end, the government must have the requisite authority to require providers of commonly used communications services to provide access to 9-1-1. As Chairman Genachowski recently said in discussing the need to

[5] Trials and requests for proposals are underway in other states.

ensure the public's ability to reach 9-1-1 using text messaging, "Access to 911 must catch up with how consumers communicate in the 21st century…"[6]

Today, access to 9-1-1 for legacy wireline services is mandated by the states, and states regulate incumbent 9-1-1 service providers, while access to 9-1-1 for wireless and interconnected voice over internet protocol (VoIP) 9-1-1 calls is mandated by the Commission. In order to avoid inconsistent regulation, including disparate cost recovery, arising from dual jurisdiction at the state and federal level, it would be appropriate for the federal government to take responsibility for determining which service providers must provide access to 9-1-1 and ensuring technologically-neutral cost recovery regimes.

Where the transition to NG9-1-1 has begun in the states, it is clear that existing rules and regulations regarding the rights and obligations of service providers to interconnect for the purpose of delivering 9-1-1 calls may not be entirely appropriate—especially where 9-1-1 services are no longer provided by ILECs. Establishing mutually beneficial interconnection arrangements between and among ILECs, originating service providers, alternative 9-1-1 service providers and 9-1-1 authorities is essential to ensuring the effective transition to NG9-1-1.

Moreover, IP is being deployed in the origination, routing and delivery of 9-1-1 calls, and there has been debate as to what 9-1-1 call delivery requirements can be imposed on service providers utilizing IP technology. For example, did the FCC intend to assume jurisdiction over all interconnected VoIP providers with respect to their obligations to deliver 9-1-1 calls—including static interconnected VoIP providers? Does the FCC's jurisdiction over interconnected VoIP providers leave any room for state or local 9-1-1 authorities to set out independent

[6] *Chairman Genachowski Announces Commitments to Accelerate Text-to-911* (December 6, 2012), http://www.fcc.gov/document/chairman-genachowski-announces-commitments-accelerate-text-911.

requirements as to how VoIP 9-1-1 calls must be delivered? [7] Can 9-1-1 authorities go so far as to deny a VoIP provider access to pANIs if its requirements are not met? What happens in states that have limited the ability of any state agency to regulate IP enabled services—does this mean that there can be no regulation over IP-based 9-1-1 service quality and certification at the state level? There is little doubt that there should be continued state oversight of 9-1-1 services.[8] The question is how to create a reasonable and predictable framework that serves the public interest.

It is critical that the federal government assume responsibility for ensuring reliable and secure 9-1-1, E9-1-1 and NG9-1-1 networks. As part of its responsibility to ensure end-to-end public safety network reliability and interoperability, it would be appropriate for the federal government to establish some level of guidance with respect to PSAP infrastructure. In 2008, the 9-1-1 Industry Alliance stated that "based on conversations with professionals in the field, it is believed that individual PSAPs remain the single weakest link in the E9-1-1 chain and it is our

[7] These questions arose in the course of a rulemaking undertaken by the Texas Commission on State Emergency Communications (CSEC) in proposing modification of its rules to include "Minimum Standards for VoIP Positioning Center Operators." In an attempt to achieve what it considered to be 9-1-1 wireline equivalency in the delivery of VoIP calls, CSEC initially proposed rules to compel VoIP providers to provision multiple emergency service numbers (ESN) for routing and ALI management and to meet other service requirements. The obligations were applied to all VoIP service providers, both static and nomadic. In light of challenges to CSEC's authority over the service providers, the rules were modified to apply to VoIP Positioning Centers (VPCs) who were their vendors. *See, e.g.,* Comments of Verizon, Letter from AT&T Texas, Intrado Inc.'s Comments to Stawman Rule § 251.14 Interconnected VoIP 9-1-1 Service Minimum Requirements, *available at http://www.csec.texas.gov/component/content/article/77-9-1-1/151-comments-for-draft-rule-25114.* Jurisdictional issues were also debated with respect to the modified rule. *See, e.g.,* CSEC Staff Report, *available at http://www.csec.texas.gov/rule-making.* Proposed Rule 251.14 was adopted by the Commission with an effective date of May 1, 2013. *See,* Adoption of Proposed Rule, http://www.csec.texas.gov/images/CSEC_Docs/Rules/251_14_VPC_Min_Stds_Adoption%20Preamble.pdf .

[8] *See* Spectrum Act, Section 6509 (3) (A) where Congress confirms the importance of "recognizing existing state authority over 9-1-1 services;" *see also* Connecting America: The National Broadband Plan (NBP), 326 (March 16, 2010) (stating that federal legislation "should recognize existing state authority over 911 services but require states to remove regulatory road blocks to NG911 development."), *available at* http://www.broadband.gov/plan/(last visited December 13, 2012); *see also* House Report 106-025, 2 , (106th Congress 1999-2000) (stating that the Committee recognizes "many states currently administer effective 9-1-1 systems," "that most of the actual implementation of E9-1-1 systems will be at the local level," and that it is not the Committee's intent to supersede any state 9-1-1 laws; *see also* New and Emerging Technologies 911 Improvement Act of 2008 (Net 911 Act), Pub. L. No. 110-283, 112 Stat. 2633, Section 6 (h) wherein Congress tasked the FCC to work collaboratively with state and local public safety organizations, industry members and the E-9-1-1 Implementation Office to develop best practices.

understanding that individual PSAP outages are not reported in most cases."[9] The goal should be to avoid any compromise of the integrity of the NextGen9-1-1 network at any point, including ingress to the PSAP, the PSAP's CPE, PSAP power and other support equipment located within the PSAP facility. Federal responsibility for resilient emergency communications cannot be limited to the NPSBN, which must be integrated with NG9-1-1.[10] NG9-1-1 must have equal priority in terms of ensuring adherence to industry-promulgated standards, reliability and interoperability.

The responsibilities for establishing any federal regulation associated with NG9-1-1 should reside with the FCC, which of all federal agencies has the broadest existing authority and experience to address issues relevant to NG9-1-1 networks and services providers. Under the Communications Act, the FCC already has authority to assume a decisive leadership role in guiding the transition to NG9-1-1. The Commission has historically maintained a statutorily defined role in 9-1-1/E9-1-1 issues.[11] The Commission also has the expertise to address the rights and obligations of service providers with respect to NG9-1-1.[12] To the extent that the FCC does not currently have jurisdiction to accomplish these objectives with regard to NG9-1-1 specifically, Congress should provide it.

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[9] 9-1-1 Industry Alliance, *Health of the US 9-1-1 System*, n. 35, http://www.theindustrycouncil.org/9IA_Health_of_US_911%20_2_.pdf (last visited December 13, 2012).

[10] *See* Section 6206 (b) (2) (c) of the Spectrum Act which requires "integration of public safety answering points or their equivalents."

[11] *E-911 Requirements for IP-Enabled Service Providers*, First Report and Order, 20 FCC Rcd 10245 ¶ 29, n. 95 (2005) (Voip E911 Order).

[12] For example, the Commission has oversight over interconnection between carriers under Section 251 of the Telecommunications Act of 1996 and was given responsibility by the Net 911 Act to address access to E9-1-1 capabilities.

C. Liability Protection

Liability protection for NG9-1-1 has been an important concern of access service providers, PSAPs, users and vendors providing NG9-1-1 services. In the Next Generation 9-1-1 Advancement Act of 2012 (Advancement Act), Congress broadened the level of federal protection to address the breadth of NG9-1-1 services and providers. The Advancement Act provides:

> (a) Immunity. A provider or user of Next Generation 9-1-1 services, a public safety answering point, and the officers, directors, employees, vendors, agents and authorizing government entity (if any) of such provider, user, or public safety answering point, shall have immunity and protection from liability under Federal and State law to the extent provided in subsection (b) with respect to—
>
> (1) The release of subscriber information related to emergency calls or emergency services;
> (2) The use or provision of 9-1-1 services, E9-1-1 services or Next Generation 9-1-1 services; and
> (3) Other matters related to 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services.
>
> (b) Scope of immunity and extent of the immunity and protection from liability afforded under subsection (a) shall be the same as that provided under section 4 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C 615a) to wireless carriers, public safety answering points, and users of wireless 9-1-1 service (as defined in paragraphs (4), (3), and (6), respectively, of section 6 of that Act (47 U.S.C. 615b) with respect to such release, use, and other matters.[13]

All existing federal immunity related to provisioning NG9-1-1 services ultimately depends on the level of immunity afforded by each state. It would be valuable to have consistent, independent federal immunity for 9-1-1, E9-1-1 and NG9-1-1 services. However, if insufficient federal authority exists to provide such immunity, states should consider legislative changes. As an example, last year, California amended its Civil Code to broaden immunity beyond telecommunication services providers and to specifically include 9-1-1 services that

[13] Advancement Act § 6506.

utilize in whole or in part utilizes internet protocol.[14] As long as the degree of immunity is the same immunity as that which exists today for wireless calls and interconnected VoIP calls, liability protection should not be viewed as an impediment to NG9-1-1 deployment.

D. Technologically Neutral Funding Mechanisms

There are significant, complicated national policy issues surrounding how NG9-1-1 will be funded. A few of the most fundamental issues include: What funding model(s) will be appropriate? Will NG9-1-1 be paid for by sales or property taxes, traditional 9-1-1 surcharges, or some combination of these mechanisms?

As of the second quarter of 2012, for the first time, the United States wireless market has experienced a decline in subscriber service contracts, which has been the primary vehicle for surcharge collection. The seven largest wireless carriers (representing 95% of the industry's subscribers) lost 52,000 subscribers in the quarter, apparently being replaced by pre-paid arrangements.[15] This is a significant development in efforts to fund 9-1-1 given that approximately 24 states do not collect revenue for providing 9-1-1 service on pre-paid wireless service.

An additional question that must be answered is: What must be funded? The funding solution will have to address capital expansion in a way that is unprecedented for 9-1-1. For example, in addition to recurring operating costs, there will be transitional, one-time capital costs. And for some number of years, legacy and NG9-1-1 systems will have to operate together. NG9-1-1 costs will be in addition to the cost of legacy 9-1-1—at least to some extent, necessitating two funding regimes for some period of time.

[14] California Civil Code § 1714.55.

[15] Peter Svensson, *US phone subscribers hang up on contracts*, http://www.businessweek.com/printer/articles/14060?type=ap.

Other ongoing efforts may help to provide solutions. The National Highway Traffic Safety Administration (NHTSA) has convened a Blue Ribbon Panel on 9-1-1 Funding for the purposed of identifying funding models,[16] and as directed by Congress, the 9-1-1 Implementation Coordination Office must prepare a report to Congress that identifies the costs of NG9-1-1 that will "serve as a resource for Congress as it considers creating a coordinated, long-term funding mechanism for the deployment and operation, accessibility, application development, equipment procurement, and training of personnel for Next Generation 9-1-1 services."[17] Unfortunately, substantially more analysis and investigation is required before policy makers can settle on a definitive funding model, and the specific funding questions raised by the Commission may be slightly premature. At a minimum, the Commission should recommend that the NG9-1-1 cost study is funded expeditiously.

III. LEGAL MECHANISMS FOR ENSURING EFFICIENT AND ACCURATE TRANSITION OF 9-1-1 CALLER INFORMATION TO EMERGENCY RESPONSE AGENCIES

Intrado has always supported the development of precise 9-1-1 caller location information irrespective of the technology used to initiate or deliver a 9-1-1 call.[18] Perhaps the most important efforts with respect to location information are those being undertaken by CSRIC III, Working Group 3 and the Alliance for Telecommunications Industry Solutions (ATIS) in providing a test bed plan for evaluating location accuracy for indoor E9-1-1 calls for call routing

[16] *See* Solicitation Number: DTNH22-12-R-00559 (Original Posted Date, December 27, 2011), *available at* https://www.fbo.gov/index?s=opportunity&mode=form&id=75204dc0db0fee5949d6652d8f06fed9&tab=core&_cview=0.

[17] Spectrum Act, § 6508 (a).

[18] *See* Comments of Intrado Inc., *In the Matter of Comments Sought on Proposals Regarding Service Rules for Wireless Enhanced 911 Phase II Location Accuracy & Reliability*, P.S. Docket No. 07-114 (filed October 6, 2008).

and accuracy so that first responders will be able to readily identify the precise location of the person needing assistance.[19] All new accuracy technologies should be evaluated with the goal of attaining the most accurate location that is technically and economically feasible.

IV. RECOMMENDATIONS FOR REMOVING JURISDICTIONAL BARRIERS AND INCONSISTENT LEGACY REGULATIONS

One of the most significant potential legal/regulatory impediments facing NG9-1-1 deployment is uncertainty as to what degree states may exercise authority over IP-based services in delivering 9-1-1 calls to PSAPs. The FCC can and should act expeditiously to clarify whether the imposition of location and routing requirements conflicts with federal jurisdiction.

As discussed previously, the advent of NG9-1-1 requires serious consideration of whether existing interconnection rules should apply to the arrangements among service providers and 9-1-1 authorities with respect to delivery of 9-1-1 calls. Efficient and effective relationships among originating service providers, 9-1-1 service providers and the PSAPs must be ensured. Providing the interconnection rights necessary for the implementation of NG9-1-1 service providers, including those utilizing IP technologies, will result in public safety benefits to consumers and public safety agencies, thereby fostering the transition to NG9-1-1. Indeed, Congress recognized the importance of interconnection in the context of 9-1-1 services when it required owners and controllers of capabilities that are used for 9-1-1 or E9-1-1 service to make those capabilities available to a requesting interconnected VoIP service provider to ensure VoIP service providers' 9-1-1 callers can reach the appropriate PSAP.[20]

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[19] *See ATIS Provides Test Bed Plan for Evaluating Location Accuracy for Indoor E9-1-1 Calls, http://www.atis.org/PRESS/pressreleases2012/120412.html.*

[20] *See, e.g.*, 47 C.F.R. § 9.7; *see also Implementation of the NET 911 Improvement Act of 2008,* 23 FCC Rcd 15884, ¶¶ 21-29 (2008).

V. CONCLUSION

As set forth herein, there are areas in which federal action, clarification or guidance would foster the nation's transition to NG9-1-1. Intrado urges the Commission or Congress, as necessary, to address those areas expeditiously.

Respectfully submitted,

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